



U.S. Department of the Interior
Office of Inspector General

SPECIAL REPORT

**CONTRACTING WITH THE ENVIRONMENTAL
CHEMICAL CORPORATION FOR A FOCUSED
FEASIBILITY STUDY FOR WATER TREATMENT AND
FOR WATER TREATMENT SERVICES UNDER
BUREAU OF RECLAMATION
CONTRACT NO. 1425-2-CC-40-12260**

**REPORT NO. 96-I-869
JUNE 1996**



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

JUL - 8 1996

MEMORANDUM

TO: **The Secretary**

FROM: **Wilma A. Lewis**
Inspector General

SUBJECT SUMMARY: **Final Special Report for Your Information - "Contracting With the Environmental Chemical Corporation for a Focused Feasibility Study for Water Treatment and for Water Treatment Services Under Bureau of Reclamation Contract No. 1425-2-CC-40-12260" (No. 96-I-869)**

Attached for your information is a copy of the subject final special report.

At the request of a Colorado Congressman, we reviewed the Bureau of Reclamation's contracting for a Focused Feasibility Study for water treatment and for water treatment services with the Environmental Chemical Corporation under Contract No. 1425-2-CC-40-12260 at the Summitville Mine near South Fork, Colorado. We concluded that the Bureau complied with applicable provisions of the Federal Acquisition Regulation in awarding work to the Corporation for both the Focused Feasibility Study and performance of the water treatment work. We also found that the Bureau planned to obtain an opinion from the Office of the Solicitor regarding the Corporation's participation in a future acquisition of the water system and that the Corporation acted within the scope of its authority in awarding a subcontract for identifying water treatment technologies. The report did not contain any recommendations because the Bureau was in compliance with regulations and was taking appropriate action regarding the Corporation's participation in a future acquisition of the water system.

If you have any questions concerning this matter, please contact me or Ms. Judy Harrison, Assistant Inspector General for Audits, at (202) 208-5745.

Attachment



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL

Headquarters Audits
1550 Wilson Boulevard
Suite 401
Arlington, VA 22209

JUN 17 1996

SPECIAL REPORT

Memorandum

To: Assistant Secretary for Water and Science

From: Judy Harrison *Judy Harrison*
Assistant Inspector General for Audits

Subject: Special Report on Contracting With the Environmental Chemical Corporation for a Focused Feasibility Study for Water Treatment and for Water Treatment Services Under Bureau of Reclamation Contract No. 1425-2-CC-40-12260 (No. 96-I-869)

INTRODUCTION

This report presents the results of our review of the Bureau of Reclamation's contracting for both a Focused Feasibility Study for water treatment and for water treatment services with the Environmental Chemical Corporation under Contract No. 1425-2-CC-40-12260 at the Summitville Mine near South Fork, Colorado. We performed this review at the request of a Colorado Congressman, who expressed concerns about the Corporation's role in the process to acquire water treatment services at the Mine in a March 23, 1995, letter to the Inspector General, Environmental Protection Agency.

BACKGROUND

On July 7, 1992, the Bureau awarded an indefinite delivery, indefinite quantity contract in an amount not to exceed \$500,000 to the Corporation to provide: (1) hazardous waste site assessments; (2) remedial investigations and feasibility studies; (3) implementation of remediation plans; and (4) assistance to the Bureau in the cleanup of hazardous waste sites on Federal, Department of the Interior, or Bureau land. The contract was awarded under the Small Business Administration's Section 8(a) program for socially and economically disadvantaged contractors. After the Environmental Protection Agency initiated interagency agreements with the Bureau to cleanup hazardous substances at the Summitville Mine, the Bureau and the Small Business Administration subsequently modified the contract to raise the amount to accommodate work at the Mine and for other work not related to the Mine. Four of the delivery orders were for some form of water treatment at the Mine as follows:

<u>Delivery Order Number</u>	<u>Date of Issue</u>	<u>Order Ceiling</u>	<u>Description</u>
6	12/12/92	\$6,815,562	Undertake emergency water treatment
9	5/5/93	40,000,000	Continue water treatment and conduct feasibility study for long-term water treatment
21	9/22/94	3,000,000	Water treatment/sludge management
28	7/24/95	5,528,546	Continue water treatment

In May 1994, the Bureau requested the Corporation to prepare the Focused Feasibility Study for water treatment. The purpose of the Study was to analyze potential remedies for the operation and maintenance of a permanent water treatment system at the Mine. The Corporation completed the Study in June 1994 under Delivery Order 9.

OBJECTIVE AND SCOPE

This review was initiated as part of our previous audit of Bureau of Reclamation Contract No. 1425-2-CC-40-12260 with the Environmental Chemical Corporation related to the cleanup of the Summitville Mine site (see "Prior Audit Coverage"). The objective of this review was to determine whether: (1) the Bureau complied with the Federal Acquisition Regulation in contracting with the Corporation for both preparing a Focused Feasibility Study for water treatment and for performing water treatment services at the Summitville Mine; (2) the Corporation's potential future participation in the procurement process for a water system is appropriate; and (3) the Corporation acted within the authority of the Contract in awarding a subcontract for identifying new water treatment technologies. To accomplish our objective, we reviewed contract files and applicable Federal Acquisition Regulations and interviewed officials from the Bureau.

PRIOR AUDIT COVERAGE

The General Accounting Office has not issued any audit reports on the Bureau of Reclamation's administration of the contract for the Summitville Mine cleanup in the past 5 years, but the Office of Inspector General has issued one audit report.

On March 14, 1996, the Office of Inspector General issued the report entitled "Award and Administration of Contract No. 1425-2-CC-40-12260 With Environmental Chemical Corporation Related to the Summitville Mine Site Cleanup,

Bureau of Reclamation” (No. 96-I-313). The report stated that the Bureau did not ensure that costs to the Government resulting from the award of delivery orders under the contract were fair and reasonable. This occurred, according to the report, because the Bureau did not: (1) adequately evaluate the Corporation’s proposed costs; (2) evaluate the efficiency and effectiveness of the Corporation’s purchasing system; and (3) consider alternative contractors for portions of the cleanup effort. As a result, the amount billed by the Corporation for the period ending December 31, 1994, which was based on negotiated contract rates, exceeded actual costs by \$5.3 million. This amount was in addition to profit negotiated into contract prices. In addition, the report stated that the fact that the Corporation subcontracted most of the production work for three delivery orders, totaling \$12.5 million, suggested that the Bureau may have had the opportunity to reduce costs by contracting directly with the subcontractors, thereby avoiding the Corporation’s overhead and profit on these orders. In regard to contract administration, the report stated that the Bureau did not establish formal written inspection procedures or document the Corporation’s performance to ensure that hours, equipment, and materials billed were accurate and reasonable. The report also noted that on four occasions, the Bureau incurred costs on the Summitville cleanup project in excess of authorized funds. Based on the Bureau’s response to the draft report, we considered 4 of the report’s 10 recommendations resolved and implemented and revised 3 recommendations. We requested the Bureau to provide a response to the revised recommendations and to reconsider its response to the remaining three recommendations by May 13, 1996.

DISCUSSION

We concluded that the Bureau of Reclamation did not violate applicable provisions of the Federal Acquisition Regulation when it awarded work to the Corporation under Contract No. 1425-2-CC-40-12260 both for preparation of the Focused Feasibility Study and for performing water treatment work at the Summitville Mine. In addition, we found that the Bureau planned to obtain an opinion from the Office of the Solicitor regarding the Corporation’s participation in a future acquisition of the water system. Finally, we determined that the Corporation acted within the scope of its authority in awarding a subcontract for identifying water treatment technologies.

Preparation of the Focused Feasibility Study

The Code of Federal Regulations (40 CFR 300.430(e)) states, “The primary objective of the feasibility study (FS) is to ensure that appropriate remedial alternatives are developed and evaluated such that relevant information concerning the remedial action options can be presented to a decision-maker and an appropriate remedy selected.” The Code (48 CFR 9.505-1) further states that “a contractor that provides systems engineering and technical direction for a system but does not have overall contractual responsibility for its development, its integration, assembly, and checkout

or its production shall not (1) be awarded a contract to supply the system or any of its major components or (2) be a subcontractor or consultant to a supplier of the system or any of its major components.” We found that the Environmental Protection Agency, in December 1994, selected the alternative for water treatment that the Corporation recommended in the Study. Subsequently, in accordance with the Agency’s direction, the Bureau prepared a design for the operation and maintenance of a water treatment system in March 1995. Also, in February 1996, the Bureau prepared draft specifications for the request for proposals that will be used in purchasing the system for 1 base year plus 4 option years. However, as of March 1996, the Bureau had not issued a request for proposals. Based on our analysis of these events, we concluded that the Bureau had not violated the above provisions of the Federal Acquisition Regulation.

Corporation Participation in the Procurement Process

In regard to the Corporation’s potential participation in this upcoming procurement, Bureau contracting officials told us that they plan to obtain an opinion, as required by the Federal Acquisition Regulation (48CFR 9.504(b)), from the Office of the Solicitor to determine whether the Corporation may participate in the acquisition of the water system.

Corporation Issuance of Subcontract

We followed up on concerns expressed by the Colorado Congressman in the March 23, 1995, letter about the Corporation’s perceived role in contracting for water treatment. In that regard, the letter stated:

It’s my understanding that Environmental Chemical Corporation executed the EPA’s focused feasibility study on water treatment. Then they prepared the request for proposal (RFP) documents for Summitville water treatment and served a lead role in evaluating the RFP responses. I question whether ECC, lead contractor profiting from the status quo water treatment regime, should play such a significant role in evaluating the major operational component of the Summitville cleanup.

As already noted, a request for proposals to obtain the services recommended by the Corporation’s Study was not prepared by the Corporation or issued by the Bureau. Prior to authorizing the Corporation to develop the Study in May 1994, the Bureau awarded two delivery orders (Nos. 6 and 9) to the Corporation for emergency water treatment at the Mine. Under Delivery Order 9, the Corporation prepared and issued a request for proposals in October 1993. The purpose of the request was to attempt to identify water treatment technologies that would enhance ongoing emergency water treatment operations. An 18-member committee composed of officials from the Corporation, the Bureau, the State of Colorado, Morrison Knudsen

Corporation, and the Environmental Protection Agency evaluated the proposals that were received under the request. After the committee evaluated the proposals, the Corporation awarded a subcontract under the delivery order. We concluded that the subcontract awarded by the Corporation was within the scope of its authority under the delivery order.

A response to this report is not required. However, if you have any questions regarding this report, please call Mr. Alan Klein, Regional Audit Manager, Central Region, at (303) 236-9243.

cc: Commissioner, Bureau of Reclamation
Chief, Division of Management Control and Audit Follow-up,
Office of Financial Management
Audit Liaison Officer, Water and Science
Audit Liaison Officer, Bureau of Reclamation

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